First Nations Water Rights in British Columbia

A Historical Summary of the rights of the Cowichan Lake First Nation

346.711/0432/COWICH/1997
STEINHAUER, JUBIE.
First Nations water
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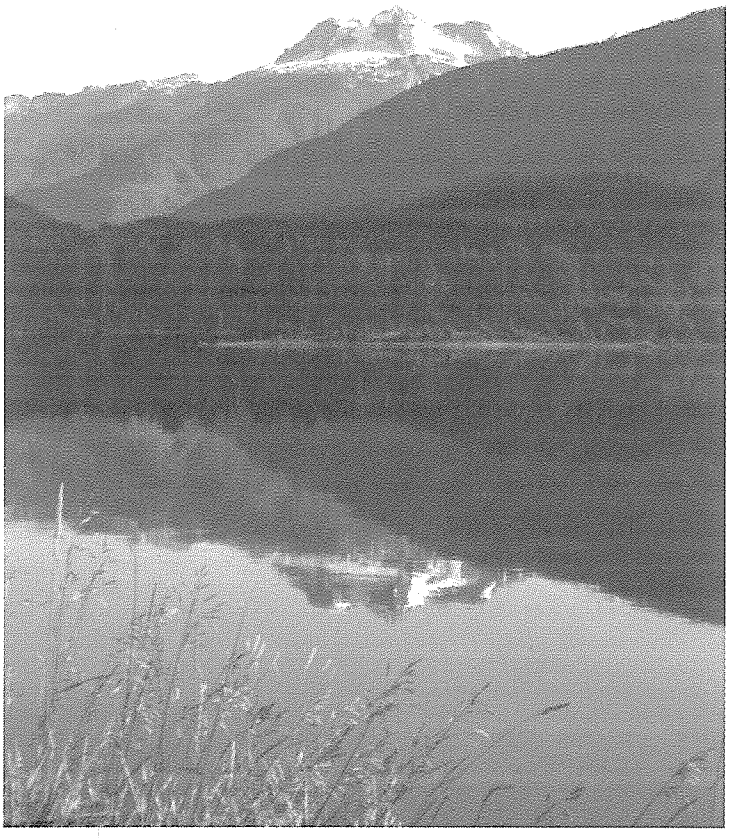

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British Columbia

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FIRST NATIONS WATER RIGHTS IN BRITISH COLUMBIA:

A Historical Summary of the rights of the Cowichan Lake First Nation

Prepared by: Jubie Steinhauer
Edited by: Sarah Cheevers
Christina Rocha
and Miranda Griffith

Reviewed by: Gary W. Robinson

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Sara Cheevers

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Gary Robinson
Project Manager
Water Management Branch

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5. COPY OF THE SUMMARY OF WATER PROTECTION RECORDS FOR FIRST NATIONS.

6. MAP: Cowichan Lake Reserve and area
   -INSET A

FIRST NATIONS WATER RIGHTS REPORT

BAND: Cowichan Lake

ADDRESS: P. O. Box 1376, Lake Cowichan, B. C., V0R 2G7

CHIEF: Edward Livingstone

PHONE: 748-3196 FAX: 544-2325

AFFILIATION: South Island Tribal Council

LOCATION:

The Cowichan Lake Band occupy a 96.9 acre (39.2 hectare) reserve located 1.5 km northwest of the Village of Cowichan Lake. The Cowichan Lake Reserve is located on the southeast side of Cowichan Lake.

The most recent population figures compiled by the Ministry of Finance show the Cowichan Lake Band to have 10 persons living on the reserve as registered members. Its total population, including registered and non-registered members, living on and off reserve, is reported as 12.

Located adjacent to the Strait of Georgia, the reserve sits at elevations ranging from 180 to 300 metres above mean sea level. Average daily temperatures for the area range from between 5 degrees centigrade in January to less than 16 degrees centigrade in July. The average annual rainfall for the area totals between 100 and 250 centimetres.

Water courses of significance include:

- Neva Creek: flows south from the southeast corner of Cowichan Lake Reserve, over the Canadian National Railway lands and into Cowichan Lake.

WATER ALLOCATIONS:

No records exist to indicate water allocations were made by either the Indian Reserve Commission, the Lieutenant Governor in Council (by Order in Council), or by the Board of Investigation with respect to the Cowichan Lake Band. Similarly,

there are no records that indicate that actions to amend licensed rights, pursuant to provisions in the *Water Act.*, have occurred.

The water rights of the Cowichan Lake Band have been determined by one action of Government over the years:

1) The granting of water licenses in response to Federal Government applications requesting authorization for use of water on reserve lands.

HISTORY, CURRENT STATUS AND NOTES:

The history of water rights, the current status of rights and notes for the Cowichan Lake Band with respect to Neva Creek are as follows:

Neva Creek

History:

Jun 1, 1965 In accordance with an application filed by the Indian Superintendent of the Cowichan Lake Agency, the Comptroller of Water Rights issued Conditional Water License 30045, bearing a date of precedence of January 29, 1965 and authorizing the diversion and use of up to 1,000 gallons of water per day for domestic purposes. The license authorizes use year round and defines the appurtenant lands as the Cowichan Lake Reserve, Cowichan Lake District, except Canadian National Railway Right-of-Way (Plan 228).

Current Status:

Conditional Water License 30045 is the only active license on Neva Creek. This gives the Cowichan Lake Band first priority rights on this source.

Water Survey of Canada has no records of streamflow on Neva Creek and there is no other current information on water availability.

Notes:

1. There are no additional notes with respect to the rights of the Cowichan Lake Band on Neva Creek.

OTHER INFORMATION:

Groundwater Records:

A review of records maintained by the MELP - Groundwater Section found that one well had been reported on the Cowichan Lake Reserve. The water yield is unrecorded and the extent to which this well is utilized is unknown. Further details are attached to this report.

As provision of well information is voluntary, it should not be assumed to be complete.

Municipal Water Sources:

The proximity of the Cowichan Lake Band to the Village of Cowichan Lake presents the potential for water supply to the reserve via connection to the municipal water line. Recorded use of water by the Village of Cowichan Lake is approximated at 221.4 million gallons per year. The existing water license authorizes the Village to use up to 306.7 million gallons of water per year. This leaves 27.8% or approximately 85.2 million gallons of the authorized water unused.

Water Protection Records:

The Water Protection Section has record of a 5.74 kilometre dyke located on the Cowichan and Koksilah Rivers. The dyke is maintained by the Band.

ATTACHMENT 1

Summary of Water Rights Records								
Cowichan Lake								
Water Source	**Priority Date**	**Reserve Name**	**File No.**	**Document Type**	**Status**	**Superceded By**	**Licence PUC/MOD & OIC Allotments**	**Comments**
Neva Creek	1965/01/29	Cowichan Lake	260125	CL 30045	Current		1,000 GAD/Domestic	CL 30045: **Priority 1** - Neva Creek

LEGEND:

License Types (Document Types)
CL: Conditional License
FL: Final License
Z: Application

Mechanisms for Allocation (Document Type)
OIC: Order-in-Council (as issued by the Lieutenant Governor in Council)
MOD: Minute of Decision (as recorded under the Indian Reserve Commission)
IRC: Indian Reserve Commission
AGBC: Attorney Generals Office of BC (followed by File #)

Allotment Units
GAD: Gallons a day
AF: Acre feet
CFS: Cubic feet per second

ATTACHMENT 2

WATER RESOURCES SERVICE
WATER RIGHTS BRANCH

DEPARTMENT OF LANDS, FORESTS,
AND WATER RESOURCES

THE PROVINCE OF BRITISH COLUMBIA—WATER ACT

CONDITIONAL WATER LICENCE

Indian Affairs Branch,
Department of Citizenship and
Immigration of OTTAWA, Ontario

is/are hereby authorized to divert and use water as follows:—

(*a*) The source(s) of the water-supply is/are Neva Creek.

(*b*) The point(s) of diversion is/are located as shown on the attached plan.

(*c*) The date from which this licence shall have precedence is 29th January, 1965.

(*d*) The purpose for which the water is to be used is domestic.

(*e*) The maximum quantity of water which may be diverted is 1000 gallons a day,

and such additional quantity as the Engineer may from time to time determine should be allowed for losses.

(*f*) The period of the year during which the water may be used is the whole year.

(*g*) The land upon which the water is to be used and to which this licence is appurtenant is
Cowichan Lake Indian Reserve, Cowichan Lake District, except Canadian National Railway Right-of-Way (Plan 228).

(*h*) The works authorized to be constructed are tank and pipe,

and they shall be located approximately as shown on the attached plan.

(*i*) The construction of the said works shall be commenced on or before the 30th day of November, 1965, and shall be completed and the water beneficially used on or before the 31st day of December, 1966.

(j) This licence authorizes the use of water in the one dwelling constructed on the land described in clause (g) at the date hereof, and in the one dwelling to be constructed thereon or any dwellings replacing same but not in any other dwellings.

8720
R.M. B.D.

H. D. DeBeck,
Comptroller of Water Rights.

FILE No. 0260125 Date issued: 1 June 1965

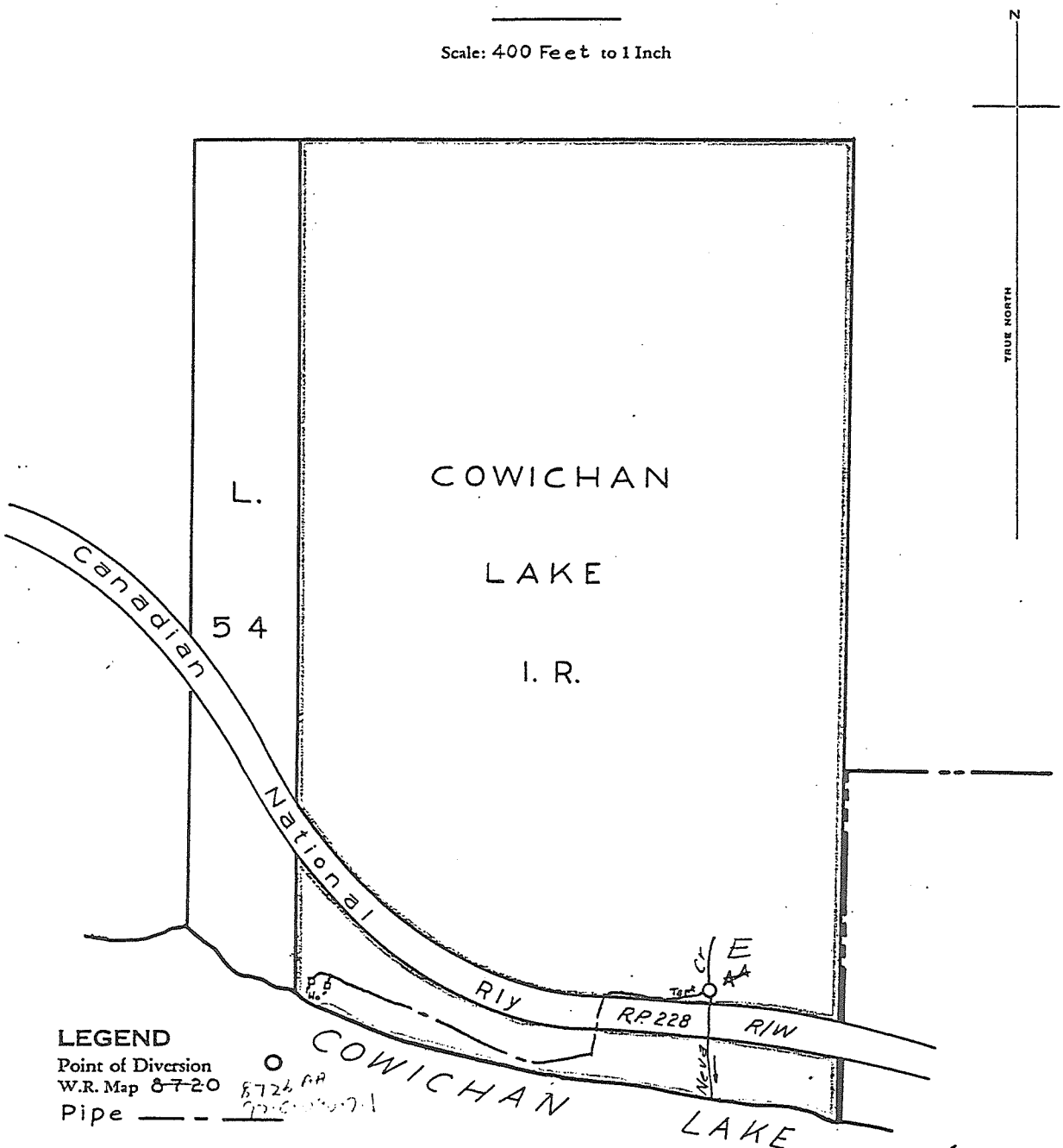
CONDITIONAL LICENCE No. 30045

British Columbia

VICTORIA WATER DISTRICT

COWICHAN LAKE DISTRICT

Scale: 400 Feet to 1 Inch



LEGEND

Point of Diversion ○ 8724 AR

W.R. Map ~~8-7-20~~

Pipe ——— — — ———

The boundaries of the land to which this licence is appurtenant are shown thus: ═══

The boundaries of Village of Lake Cowichan are shown thus ——— — — ———

EXHIBIT "A"

4

Signature [signature]

Date 1 June 1965

C.L. 30045

File 0260125

100-1264-1268

ATTACHMENT 3

Stream Register Report Water Licence Information System

Report Requested By : JSTEINHAUER
Date Report Requested : 1995/08/01 14:20
Report Sorted By : Source Gazetted - Priority Date - Licence Number
Selection Criteria
START POINT : PD32453 - 92.C.090.2.1 E
END POINT : SO19983 - Neva Creek left of Cowichan Lake

Stream Register Report

Water Licence Information System

DATE: 1995/08/01
TIME: 14:20
PAGE: 001

Priority YYYY/MM/DD	Licence File Number	Appurtenancy Number	Licensee	PUC	Quantity/Units	Term Start	Term End	Licence Comments	Process Status
Source		WR Map	POD RED POD Comments					Proc	
1965/01/29	COJ0045	0260125 COMICHAN LK IR COMICHAN LK DIST EXC CNR R/W PLAN 228	COMICHAN LAKE INDIAN BAND 974-643-8350 C/O 300 1550 ALBERNI ST VANCOUVER BC V6G3C5	DOM	1,000.00 GD	Jan 01	Dec 31		
Nava Creek		WR92.C.090.7.1	E N					31A VIC - DUNCAN	

---------- Total of 1 Licence Reported ----------

ATTACHMENT 4

02/08/95

Ministry of Environment - Water Management Branch - Groundwater Section
Groundwater Database System
Data Summary - with Legal Descriptions and Old Coordinates

BCGS Map Area	Well No.	Well Tag No.	Lot No.	Plan No.	Blk No.	TP	SC	RG	D.L.	Z	X	Y	Old Well No.	L.D.	Site Address	Date Constructed (dmy)	Well Depth (ft.)	Well Diam. (in.)	Drill Contr No.	Const. Method	Well Yield	Yld. Unt.	Depth to Water (ft.)	Depth to Bedrk (ft.)	Aquif Litho	Screen Interval (ft.)	G.W. Rpt	Chem Lab
092C.090.2.3.1	001	000000013123					27			00	25	14	001	18		01-01-1950	23.0	0.0	UNK	DUG			UNK	UNK	UNC			
[illegible]	002	000000021380							54	00	25	14	002	18		01-04-1968	42.0	0.0	032	DRI			UNK	UNK	UNC			
092C.090.2.3.1	003	000000013361	12	13279					27	00	25	14	003	18		01-01-1950	163.0	0.0	032	DRI			UNK	UNK	UNC			
092C.090.2.3.1	004	000000026057	12	4313					27	00	25	14	004	18		20-03-1972	108.0	6.0	242	DRI	5.0	GPM	90	UNK	UNC			
092C.090.2.3.1	005	000000028105								00	25	14	005	18		31-05-1973	36.0	6.0	032	DRI	30.0	GPM	10	UNK	UNC			
092C.090.2.3.2	001	000000033817	5	1750	11		5			00	26	14	001	17		06-11-1975	40.0	6.5	076	DRI	12.0	GPM	UNK	UNK	UNC			
092C.090.2.3.2	002	000000032702	3	1750	11		5			00	26	14	002	18	BEAVER RD	11-06-1975	185.0	0.0	140	DRI	10.0	GPM	130	UNK	UNC	177-185		
092C.090.2.3.2	003	000000035061	9	1750	13		5			00	26	14	003	18		16-06-1976	225.0	6.0	032	DRI	5.0	GPM	47	87	BED			
092C.090.2.3.2	004	000000035047	7	1750	11		5			00	26	14	004	18		14-06-1976	57.0	6.0	032	DRI	4.0	GPM	31	UNK	UNC			
092C.090.2.3.2	005	000000032375	10	1750	12		5			00	26	14	005	18	BEAVER RD	28-04-1975	25.0	0.0	140	UNK	5.0	GPM	10	UNK	UNC	18-25		
092C.090.2.3.2	006	000000049371	4		11					00	26	14	006	18	BEAVER RD	15-10-1981	33.0	6.0	032	DRI	10.0	GPM	13	UNK	UNC			

DISCLAIMER: The Province disclaims all responsibility for the accuracy of this information. This information should not be used as a basis for making financial or any other commitments.

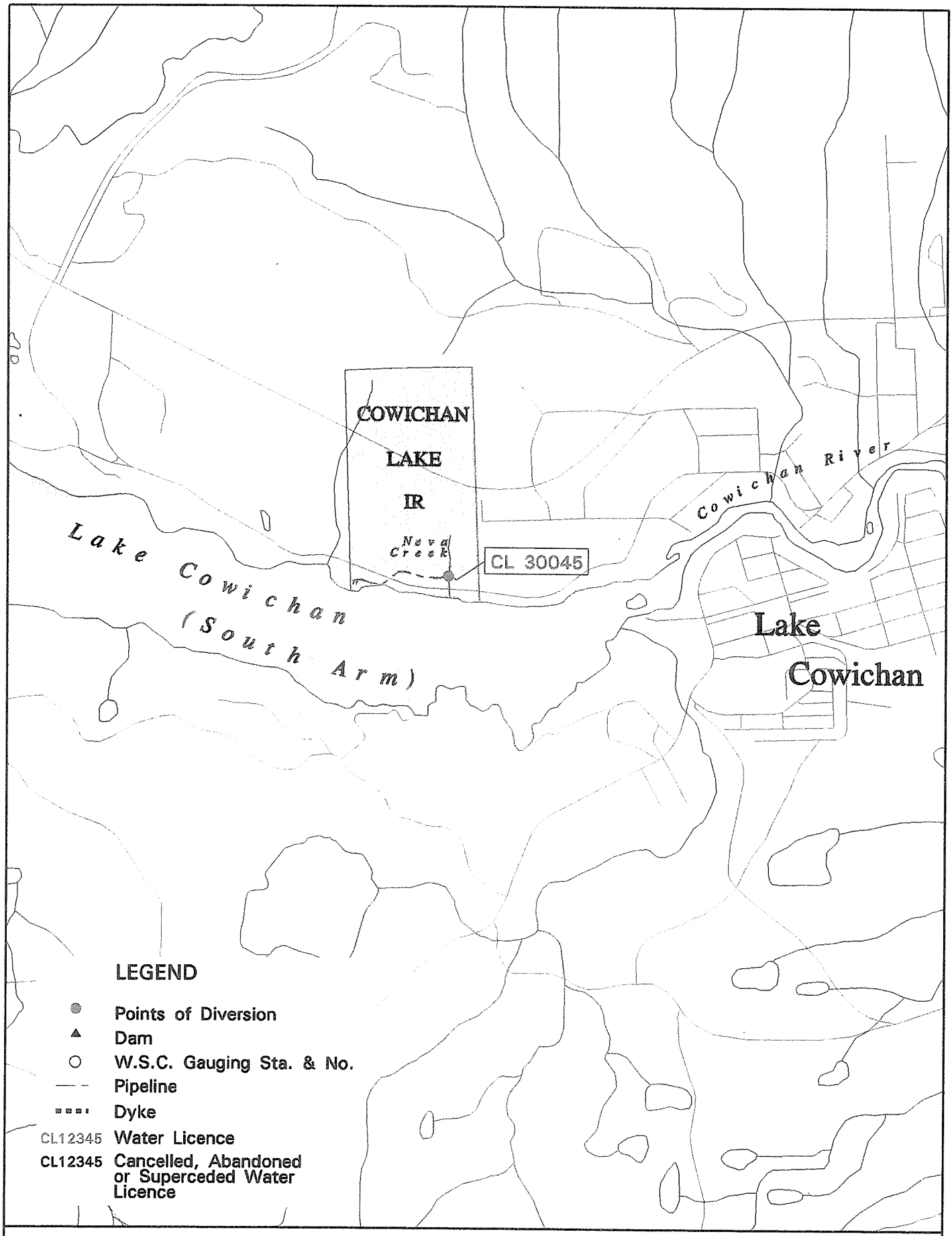
ATTACHMENT 5

A REF.	B RESERVE NAME & NO.	C BAND NAME	D WATER BODY	E TYPE OF WORKS	F LENGTH DYKE (KM)	G LENGTH B.P. (KM)	H CROWN WDTH. (M)	I APPROX. WATER SLOPE	J PROT'D. AREA (HA)	K DATE LAST CONST'D.	L CONST. FUNDED BY	M INSP-ECTED BY	N MAINTAINED BY
1	ASHNOLA 10	LOWER SIMILKAMEEN	SIMILKAMEEN R.	DYKE & B.P	0.40	1.20	?	?	60	1986	ARDSA	I.of D.	BAND
2	AIKWUCKS 15	SQUAMISH	SQUAMISH R.	DYKE	0.80	N/A	3.6	2:1	19	1977	B.C./MUN.	I.of D.	SQUAMISH DIST.
3	BARNSTON ISLAND 3	KATZIE	FRASER R.	DYKE	0.67	N/A	3.0	2:1	40.5	1950	FYDB	I.of D.	BRSH. I.D. DIST.
4	BELLA COOLA 1	BELLA COOLA	THORSEN CR.	DYKE	0.82	0.00	4.0	2:1	?	1988	BAND	?	BAND
5	BELLA COOLA 1	BELLA COOLA	TASTSQUAN CR.	DYKE & B.P	0.15	0.10	?	?	?	1974	BAND	?	BAND
6	CAPE MUDGE	CAPE MUDGE	SEA	SEAWALL	N/A	?	N/A	?	?	?	?	?	BAND
7	CHAWATHIL	HOPE	FRASER R.	B.P.	N/A	0.50	N/A	?	?	?	CPR	?	CPR
8	CHEAM 1	CHEAM	FRASER R.	DYKE	0.82	0.76	3.6	2.5:1	55.8	1974	FRJP/CNR	I.OF D.	CHILLIWACK DIST.
9	CHEHALIS 5	CHEHALIS	CHEHALIS R.	DYKE	0.44	N/A	4.0	2:1	881	1990	BAND	?	BAND
10	COQUITLAM 2	COQUITLAM	COQUITLAM R.	DYKE	0.90	N/A	?	?	70	?	BAND	?	BAND
11	COYICHAN 1	COYICHAN	COYICHAN/KOKSILAH RS.	DYKE	5.74	N/A	3.6	2:1	650	1985	ARDSA	I.of D.	BAND
12	DEADMAN'S CREEK	SKEETCHESTN	DEADMAN CR.	B.P.	N/A	?	N/A	?	800	1948	BAND	?	BAND
13	EAST SAANICH 2	TSAWOUT	SEA	SEAWALL	N/A	0.40	N/A	1.5:1	?	1989	BAND	?	BAND
14	ENDERBY 2	ENDERBY	SHUSWAP R./FORTUNE CR.	DYKE	?	N/A	?	?	340	?	BAND	?	BAND
15	FORT RUPERT 1	KWAKIUTL	SEA	SEAWALL	N/A	0.09	N/A	1.5:1	340	1974	BAND	?	BAND
16	GITANMAAX 1	GITANMAAX	SKEENA R.	GROYNE	N/A	?	N/A	N/A	?	?	?	?	BAND
17	GORDON RIVER 2	PACHEENAHT	SAN JUAN R.	B.P.	N/A	0.50	N/A	2:1	?	1991*	BAND	?	BAND
18	HALFWAY 168	HALFWAY	HALFWAY R.	B.P.	N/A	0.10	N/A	?	?	1991*	BAND	?	BAND
19	KAMLOOPS	KAMLOOPS	SOUTH THOMPSON R.	DYKE	1.37	N/A	?	?	?	1972	B.C.-HWYS.	?	BAND
20	KATIT 1	OWEEKANO	UNKNOWN	DYKE	?	N/A	?	?	?	1990	BAND	?	BAND
21	KATZIE 1	KATZIE	FRASER R.	DYKE	0.60	N/A	3.6	2.5:1	31.5	1984	FRJP	I.of D.	PITT M'DOWS DIST.
22	KINCOLITH 14	KINCOLITH	NASS R.	CAUSEWAY	N/A	0.20	4.0	1.5:1	?	1990	BAND	?	BAND
23	KITAMAAT 2	KITAMAAT	KITIMAT R.	DYKE	0.55	N/A	3.5	2:1	16	1988	BAND	?	BAND
24	KITWANGAR 1	GITWANGAK	SKEENA	B.P.	N/A	?	N/A	?	93	?	CNR	?	CNR
25	KITWILLUCHSILT 7	GITWINKSIHLKW	UNNAMED	CHAN. IMPS	N/A	N/A	N/A	N/A	52	1987	BAND	?	BAND
26	KULKAYU 4	HARTLEY BAY	SEA	SEAWALL	N/A	0.22	N/A	1.5:1	?	1977	BAND	?	BAND
27	LACHKALTSAP 9	LAKALZAP	GREENVILLE CR.	DYKE	1.40	N/A	4.0	1.5:1	600	1990	BND/BC	?	BAND
28	LAKAHAHMEN 11	LAKAHMEN	NICOMEN SLOUGH	DYKE	0.90	N/A	?	?	23	1949	FYDB	I.of D.	N.NICOMEN I.DIST.
29	LOUIS CREEK 4	NORTH THOMPSON	N.THOMPSON/LOUIS CR.	B.P.	N/A	?	N/A	?	0.6	1984	BAND	?	BAND
30	MASSET 1	MASSET	SEA	SEAWALL	N/A	0.22	N/A	VERT.	?	1983	BAND	?	BAND
31	MATSQUI MAIN 2	MATSQUI	FRASER R.	DYKE	1.10	N/A	3.6	2.5:1	41.3	1974	FRJP	I.of D.	DIST.OF MATSQUI
32	MCMILLAN ISLAND 16	LANGLEY	FRASER R.	B.P.	N/A	0.46	N/A	?	181	?	BAND	?	BAND
33	MOUNT CURRIE 1,6,8,10	MOUNT CURRIE	BIRKENHEAD	DYKE	0.70	N/A	3.0	2:1	442	PRE-70	?	I.of D.	PEMBERTON D.DIST.
34	MUSQUEAM 2	MUSQUEAM	SEA/R.ARM FRASER R.	DYKE & B.P	0.55	0.40	?	?	27.3	?	BAND	?	BAND
35	NANAIMO RIVER 3	NANAIMO RIVER	NANAIMO R./SEA	DYKE	2.20	N/A	?	?	92	1934	BAND	?	BAND
36	NEQUAIQUE 1	ANDERSON LAKE	GATES R./ANDERSON L.	DYKE	?	N/A	?	?	9	1968	HWYS/BCR	?	?
37	NESUCH 3	MOUNT CURRIE	LILLOOET R.	DYKE	8.20	N/A	3.6	2.5:1	295	1987	B.C./D.D.	I.of D.	PEMBERTON D. DIST.
38	NORTH THOMPSON 1	NORTH THOMPSON	NORTH THOMPSON R.	B.P.	N/A	0.60	N/A	?	230	?	BAND	?	BAND
39	PAPEKWATCHIN 4	LAKAHAHMEN	FRASER R.	DYKE	0.88	N/A	3.6	2.5:1	16.4	1980	FRJP	I.of D.	NICOMEN IS.I.DIST.
40	PENTICTON	PENTICTON	OKANAGAN R/SHINGLE CR.	DYKE	?	N/A	?	?	930	1953	B.C./CAN.	I.of D.	PROVINCE
41	PENTLEDGE 2	COMOX	PUNTLEDGE R.	B.P.	N/A	0.26	N/A	1.5:1	?	1972	BAND	?	BAND
42	PETERS 1	PETERS	FRASER	DYKE	0.25	N/A	?	?	125	1988	BAND	?	BAND
43	PETERS 2	PETERS	FRASER R.	B.P.	N/A	1.07	N/A	2:1	40	1988	BAND	?	BAND
44	PINCHIE 2	TL'AZT'EN NATION	STUART L./PINCHI R.	B.P.	N/A	0.10	N/A	2.5:1	30	1988	BAND	?	BAND
45	PORT SIMPSON 1	LAX KW'ALAAMS	SEA	CAUSEWAY	N/A	0.13	?	1:1	?	1990	BAND	?	BAND
46	QUAAOUT 1	LITTLE SHUSWAP	LITTLE R./ SHUSWAP L.	B.P.	N/A	0.13	N/A	?	?	1975	BAND	?	BAND
47	RUBY CREEK 2	SKAWAHLOOK	RUBY CREEK	DYKE	?	N/A	?	?	1.2	?	BAND	?	BAND
48	SALMON RIVER 1	SPALLUMCHEEN	SALMON R.	B.P.	N/A	0.19	N/A	1.5:1	?	1984	BAND	?	BAND
49	SCOWLITZ 1	SCOWLITZ 1	FRASER R./HARRISON R.	DYKE	2.90	N/A	3.6	2.5:1	93	1972	FRJP	I.of D.	KENT DIST.
50	SEABIRD ISLAND	SEABIRD ISLAND	FRASER R.	B.P.	N/A	1.90	N/A	2:1	166	1976/82	FRJP/BAND	I.of D.	KENT DIST./BAND
51	SEALCHEM 18	SQUAMISH	SQUAMISH R.	DYKE	0.60	N/A	3.6	2.5:1	4	1987	B.C./MUN.	I.of D.	SQUAMISH DIST.
52	SECHELT 2	SECHELT	SEA	B.P.	N/A	0.85	N/A	1.5:1	?	1984	BAND	?	BAND
53	SEYMOUR CREEK 2	SQUAMISH	SEYMOUR CR.	B.P.	N/A	?	N/A	?	1	?	LESEE	?	?
54	SKAWALOOK 1	SKAWALOOK	FRASER R.	B.P.	N/A	0.12	N/A	?	?	?	?	?	BAND
55	SKWEAHM 10	LAKAHAHMEN	NICOMEN SLOUGH	DYKE	2.10	N/A	3.0	2:1	23	1949	FYDB	I.of D.	NICOMEN IS.I.DIST
56	SKEMEOSKUANKIN 1,7,9	LOWER SIMILKAMEEN	SIMILKAMEEN R.	DYKE & B.P	7.50	1.50	3.0	2:1	1100	1986	ARDSA	I.of D.	BAND
57	SKIDEGATE 1	SKIDEGATE	SEA	B.P.	N/A	0.10	N/A	?	?	1985	BAND	?	BAND
58	SKUKALSPH 18	SKWAH	FRASER R.	DYKE	4.20	N/A	3.6	2.5:1	488	1949	FYDB	I.of D.	NICOMEN IS.I.DIST
59	SKWALI 3	SKWAH	FRASER R.	DYKE	2.50	N/A	3.0	2:1	4	1950	FYDB	I.of D.	CHILLIWACK DIST.
60	SKWAY 4,5	SKWAH	FRASER R.	DYKE	*	N/A	*	*	*	1950	FYDB	I.OF D.	?
61	SLOSH 1	SETON LAKE	SETON R./SETON L.	B.P.	N/A	0.08	N/A	1.5-2:1	?	1990	BAND	?	?
62	SOOWAHLIE 14	SOOWAHLIE	CHILLIWACK R.	DYKE	2.81	N/A	3.7	2:1	?	1990	BAND	?	BAND
63	SWITSEMALPH 6	ADAMS LAKE	SHUSWAP L./SYPHON CR.	DYKE	?	N/A	?	?	?	?	LESEE	?	?
64	TSAWWASSEN	TSAWWASSEN	SEA	DYKE	2.50	N/A	3.6	2.5:1	273	1985	FRJP	I.of D.	CORP. OF DELTA
65	TSEATAW 2	CHEAM	FRASER R.	DYKE & B.P	2.60	0.76	3.0	2:1	97	1973	FRJP/BAND	I.of D.	KENT DIST./BAND
66	TSULQUATE 4	GWA-SALA-NAKWAX	SEA/TSULQUATE R.	B.P.	N/A	0.28	N/A	?	?	1971	BAND	?	BAND
67	WAIWAKUM 14	SQUAKISH	SQUAKISH R.	DYKE	*	N/A	*	*	*	1977	B.C./MUN.	I.OF D.	SQUAMISH DIST.
68	WHISPERING PINES 4	WHISPERING PINES	NORTH THOMPSON R.	DYKE	?	N/A	?	?	?	PRE-72	PREV.OWNER	?	?
69	ZAITSCHULLACH 9	LAKAHAHMEN	NICOMEN SLOUGH	DYKE	0.70	N/A	3.0	2:1	20	1949	FYDB	I.of D.	NICOMEN IS.I.DIST
				TOTALS	57.65	13.17							

DYKE CATEGORIES: A - 1:200 yr. Flood + 0.6 M Freeboard
B - 1:200 yr. Flood, no freeboard
C - Less than 1:200 yr. Flood or unknown

* -See Column N COMMENTS

ATTACHMENT 6



Cowichan Lake

Scale 1:20,000

Ministry of Environment, Lands & Parks Date: September 02, 1997 Environment & Lands Division